

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DOY HORNER,

Plaintiff,

v.

Civil Action No. 2:09-cv-01038

WEXFORD HEALTH SOURCES,
NAOMI ROBERTS, Medical Administrator,
at Mount Olive Correctional Complex,
JANE/JOHN DOE, past and present; any and all
other unknown defendants for the Division of
Corrections or Wexford Health Sources at
Mount Olive Correctional Complex,
JAMES RUBENSTEIN, Commissioner of the
Division of Corrections, and DAVID BALLARD,
Warden, Mount Olive Correctional Complex,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley,
United States Magistrate Judge, who has submitted her Proposed
Findings and Recommendation pursuant to the provisions of 28
U.S.C. § 636(b) (1) (B) .

The court has reviewed the Proposed Findings and
Recommendation entered by the magistrate judge on November 6,
2009. The magistrate judge recommends dismissal of plaintiff's
complaint for failure to state a claim upon which relief can be
granted. The magistrate judge further recommends that

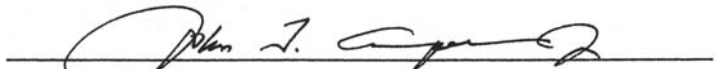
plaintiff's Application to Proceed Without Prepayment of Fees be denied. The plaintiff has not objected to the Proposed Findings and Recommendation. The court concludes the recommended disposition is correct.

Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation be, and it hereby is, adopted by the court;
2. Plaintiff's Application to Proceed Without Prepayment of Fees be, and it hereby is, denied; and
3. This action be, and it hereby is, dismissed without prejudice.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: April 6, 2010


John T. Copenhaver, Jr.
United States District Judge